



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Nasatka Barrier, Inc.

File: B-234371; B-234578

Date: March 31, 1989

DIGEST

Protest filed by firm whose interest is that of a prospective supplier to the prime contractor is dismissed since protester is not an "interested party" eligible to have its protest considered under the Competition in Contracting Act of 1984 and the General Accounting Office's implementing Bid Protest Regulations.

DECISION

Nasatka Barrier, Inc., protests award of contracts No. DACA90-87-C-0604 and No. DACA90-87-C-0601 to any firm other than itself.

The protests are dismissed.

The Corps of Engineers reports that contract No. DACA90-87-C-0604 is an indirect unit price contract for construction providing anti-terrorist security enhancements at Ramstein Air Force Base, Ramstein, West Germany. The contract was awarded under procedures established by the Federal Republic of Germany and the United States in Administrative Agreement ABG 1975, by the Statsbauamt, Kaiserslautern-West, an agency of the West German Government which had issued the invitation for bids (IFB). The Corps states that although ASITEC, Nasatka's European representative, was provided a copy of the IFB by the Statsbauamt, neither Nasatka nor ASITEC, submitted a bid. An award was made to Firm Gebr. Kittelberger GmbH on July 22, 1988, as the lowest bidder.

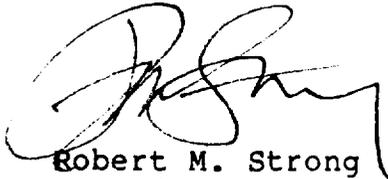
Under the Competition in Contracting Act of 1984 (CICA), this Office only decides protests filed by an "interested party," which CICA defines as an "actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract." 31 U.S.C. § 35551(2) (Supp IV 1986); 4 C.F.R. § 21.0(a) (1988). A prospective subcontractor or supplier does not have the requisite interest to be

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considered an interested party to protest under CICA since it is not a prospective or actual bidder. Perma-Pipe Division of Midwesco, Inc., B-230702, Apr. 14, 1988, 88-1 CPD ¶ 368.

Nasatka's interest in this procurement is as a potential supplier to the prime contractor, Kittelberger. Since Nasatka is not an actual or prospective bidder on the protested procurement, under CICA and our implementing Bid Protest Regulations Nasatka is not an interested party and its protest is dismissed. Perma-Pipe Division of Midwesco, Inc., B-230702, supra.

Although the Corps has not filed its report with respect to Nasatka's protest of award No. DACA90-87-C-0601, it is apparant from Nasatka's submission that it is also only a potential supplier to the prime contractor in that procurement. Accordingly, this protest is also dismissed. Id.



Robert M. Strong
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